

IV. REMARKS

Claims 1, 4, 21-22, 34-36 and 43 are pending in this action. By this amendment, the title and claims 1 and 34 have been amended, claims 23, 24 and 37-42 have been cancelled, and claim 43 has been added. Reconsideration in view of the above amendments and following remarks is respectfully requested.

Entry of this Amendment is proper under 37 C.F.R. §1.116 because the Amendment: (a) places the application in condition for allowance as discussed below; (b) does not raise any new issues requiring further search and/or consideration; (c) satisfies a condition of form asserted in the final Office Action; and/or (d) places the application in better condition for appeal, should an appeal be necessary.

By this amendment, Applicants have revised the title to be more indicative of the claimed invention.

In addition, claim 37 was objected to because of an informality. Claim 37 has been cancelled as suggested by the Office.

In the Office Action, claims 1, 4, 21, 22, and 34-37 are rejected under 35 U.S.C. § 102(b) as being anticipated by Wei (PN 5,369,303), and claims 1, 4, 21, 23-24, and 38-42 are rejected under 35 U.S.C. § 102(b) as being anticipated by Lee *et al.* (PN 5,879,997). Applicants submit that the pending claims are not anticipated by the above two patents.

With regard to claim 1, the invention is distinguishable from Wei in that Wei (Fig. 9) teaches a contact (48) having a portion that extends on two opposing vertical sides of two spacers (40), each adjacent a different gate electrode (16). By contrast, the invention claims, *inter alia*, a contact having a portion that extends on two opposing vertical sides of a vertical structure and is insulated from an adjacent second gate electrode by an insulating layer, as shown in Fig. 19.

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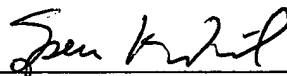
With regard to claim 34, the invention is distinguishable from Wei (Fig. 9) teaches a first insulating layer (44) that contacts two opposing vertical sides of a spacer (40) and a second insulating layer (32), which in turn contacts a gate electrode (16). By contrast, the invention claims, *inter alia*, an insulating layer that contacts two opposing vertical sides of a second portion of a spacer and a gate electrode. In view of the foregoing, Applicants request withdrawal of the rejection of claims 1, 4, 21-22, and 34-36 over Wei.

With regard to Lee *et al.*, the invention is distinguishable from Lee (Fig. 6) teaches a contact (9) contacting the gate electrode (7) and two opposing vertical sides of a spacer adjacent the gate electrode (7). By contrast, the invention claims, *inter alia*, a contact contacting two opposing vertical sides of a vertical structure adjacent a gate electrode and a diffusion adjacent the gate electrode. In view of the foregoing, Applicants request withdrawal of the rejection of claims 1, 4 and 21 over Lee *et al.*

Claims 4 and 21 are dependent upon claim 1, claim 22 is dependent upon claim 21, and claims 35 and 36 are dependent upon claim 34. The dependent claims are believed to be allowable based on the above arguments.

Applicants respectfully submit that the application is in condition for allowance. Should the Examiner believe that anything further is necessary to place the application in better condition for allowance, he is requested to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,



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